

REMARKS/ARGUMENTS

Claims 21-22 and 24-29 are pending. Claim 21 has been amended by replacing the word “compound” with the more precise term “diketopiperazine.” Claim 23 has been cancelled without intending to abandon or to dedicate to the public any patentable subject matter. As set forth more fully below, reconsideration and withdrawal of the Examiner’s rejections of the claims are respectfully requested.

Rejection Under 35 U.S.C. § 112, First Paragraph.

The Examiner has rejected Claims 21-29 under 35 U.S.C. § 112, first paragraph, as not satisfying the written description requirement. It is the Examiner’s position that Applicants have broadened the scope of the claims in making amendments to the claims in Applicants’ prior response. Specifically, it is the Examiner’s position that Applicants are now claiming a method of making any diketopiperazine, not just the diketopiperazines covered by formula 2 in the application. Applicants respectfully traverse this rejection.

Contrary to the Examiner’s contention, the rejected claims do not cover making any diketopiperazine. The scope of Claim 21 is limited to making diketopiperazines that contain an aspartic acid side chain or a glutamic acid side chain (see the definition of the second amino acid derivative in step (a), the definition of R⁶ in step (b), and the definition of R¹, in Claim 21). Moreover, Claim 21 covers what was described in the application as filed (see, *e.g.*, page 1, line 22 through page 3, line 17, and page 5, line 4 through page 8, line 14) and clearly satisfies the written description of 35 U.S.C. § 112, first paragraph. Accordingly, the Examiner is asked to withdraw this rejection.

Based on the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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